

STEPHAN A. BARBER (SBN 70070)
DANIEL P. MCKINNON (SBN 234749)
ROPER, MAJESKI, KOHN & BENTLEY
80 North First Street
San Jose, CA 95113
Telephone: (408) 287-6262
Facsimile: (408) 918-4501
Email: sbarber@ropers.com
Email: dmckinnon@ropers.com

Attorneys for Defendant
COUNTY OF SAN BENITO

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

JOHN J. SANSFIELD

Plaintiff,

v.

COUNTY OF SAN BENITO, JAIME DE
LA CRUZ, in his official capacity, REB
MONACO, in his official capacity,
ANTHONY BOTELHO, in his official
capacity, DON MARCUS, in his official
capacity, and DOES 1 through 10,
inclusive,

Defendants.

CASE NO. C-07-2528 CRB

**NOTICE OF MOTION AND MOTION FOR
INTRA-DISTRICT TRANSFER FROM
SAN FRANCISCO DIVISION TO SAN
JOSE DIVISION [Civ. L.R. 3-2(e)(f)]**

Date: October 5, 2007
Time: 10:00 a.m.
Courtroom: 8
Judge: Hon. Charles R. Breyer

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on October 5, 2007, at 10:00a.m., or as soon thereafter as the matter may be heard in Courtroom 8 of the above entitled Court, located at 450 Golden Gate Avenue, San Francisco, California, defendants COUNTY OF SAN BENITO, JAIME DE LA CRUZ, REB MONACO, ANTHONY BOTELHO, and DON MARCUS (collectively "Defendants") will move the Court to transfer the above-captioned action from the San Francisco Division to the San Jose Division of the Northern California District Court pursuant to Civil Local Rule 3-2(e) and (f).

1 The Motion will be based on this Notice of Motion and Motion, the Memorandum of
2 Points and Authorities filed herewith, the pleadings and papers filed herein, and upon such other
3 oral or documentary evidence of showing as may be made at the hearing of said motion.

4
5 Dated: August 23, 2007

ROPERS, MAJESKI, KOHN & BENTLEY

6
7 By: 

STEPHAN A. BARBER
DANIEL P. MCKINNON
Attorneys for Defendant
COUNTY OF SAN BENITO

Ropers Majeski Kohn & Bentley
A Professional Corporation
San Jose

STEPHAN A. BARBER (SBN 70070)
DANIEL P. MCKINNON (SBN 234749)
ROPER, MAJESKI, KOHN & BENTLEY
80 North First Street
San Jose, CA 95113
Telephone: (408) 287-6262
Facsimile: (408) 918-4501
Email: sbarber@ropers.com
Email: dmckinnon@ropers.com

Attorneys for Defendant
COUNTY OF SAN BENITO

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

JOHN J. SARFIELD

Plaintiff,

v.

COUNTY OF SAN BENITO, JAIME DE
LA CRUZ, in his official capacity, REB
MONACO, in his official capacity,
ANTHONY BOTELHO, in his official
capacity, DON MARCUS, in his official
capacity, and DOES 1 through 10,
inclusive,

Defendants.

CASE NO. C-07-2528 CRB

**MOTION FOR INTRA-DISTRICT
TRANSFER FROM SAN FRANCISCO
DIVISION TO SAN JOSE DIVISION**

Date: October 5, 2007
Time: 10:00 a.m.
Courtroom: 8
Judge: Hon. Charles R. Breyer

I.
INTRODUCTION

Plaintiff JOHN J. SARFIELD ("Plaintiff") is the former District Attorney for the County of San Benito. Plaintiff is suing defendants COUNTY OF SAN BENITO ("County"), JAIME DE LA CRUZ, REB MONACO, ANTHONY BOTELHO, and DON MARCUS (collectively "Defendants") for damages arising out of an alleged breach of a settlement agreement in San Benito County. De La Cruz, Monaco, Botelho, and Marcus are being sued in their official capacity as members of the San Benito County Board of Supervisors. As such, this action arose in the County of San Benito and pursuant to Civil Local Rule 3-2(e) should have been assigned to

the San Jose Division.

By this Motion, Defendants request this action be transferred to the San Jose Division pursuant to Civil Local Rule 3-2(f).

II. LEGAL ARGUMENT

Civil Local Rule 3-2(e) provides in relevant part:

San Jose. Except as provided in Civil L.R. 3-2(c), all civil actions which arise in the counties of Santa Clara, Santa Cruz, San Benito or Monterey shall be assigned to the San Jose Division.

Civil Local Rule 3-2(f) provide in relevant part:

Transfer of Actions and Proceedings. Whenever a Judge finds, upon the Judge's own motion or the motion of any party, that a civil action has not been assigned to the proper division within the district in accordance with this rule, or that the convenience of parties and witnesses and interests of justice will be served by transferring the action to a different division within the district, the Judge may order such transfer, subject to the provisions of the Court's Assignment Plan.

All the allegations in Plaintiff's Complaint arises from conduct occurring within San Benito County:

- Plaintiff "was at all times relevant to this matter the District Attorney of the County of San Benito and a resident of the Northern District of California and the County of San Benito." [¶6 of Plaintiff's Complaint.]

- On August 12, 2004, County employees Katie Fancher ("Fancher") and Julie Roybal ("Roybal") filed a complaint against the County and Plaintiff in the San Benito County Superior Court (San Benito County Superior Court Case Number CV-04-00117). [¶9 of Plaintiff's Complaint.]

- In January 2005, the County and Plaintiff entered into a confidential settlement agreement with Fancher and Roybal, thereby settling the claims brought by Fancher and Roybal in the San Benito County Superior Court. [¶12 of Plaintiff's Complaint.]

- The County breached the agreement by disclosing the confidential terms of the agreement to local San Benito County media. [¶13 of Plaintiff's Complaint.]

- Plaintiff complained to the County regarding the disclosure of confidential information but the County refused to investigate or discipline County employees. [¶14 of

1 Plaintiff's Complaint.]

2 • The County breached the agreement by refusing to indemnify Plaintiff for
3 attorney's fees as required by the agreement. [¶20 of Plaintiff's Complaint.]

4 • The County engaged in a ultra-vires and de-facto public disciplinary hearing in
5 San Benito County, which defamed Plaintiff and violated various constitutional rights by
6 accusing Plaintiff of professional negligence. [¶¶22, 23, 24 of Plaintiff's Complaint.]

7 • The County placed illegal financial and other controls over the San Benito County
8 District Attorney's Office. [¶26 of Plaintiff's Complaint.]

9 Each of the conduct complained of occurred in San Benito County. As such, this action
10 should have been assigned to the San Jose Division.

11 **III.**
12 **CONCLUSION**

13 Based on the foregoing, there can be no dispute this action arose in San Benito County.
14 Pursuant to Civil Local Rule 3-2(e), this action should have been assigned to the San Jose
15 Division. Defendants respectfully request this action be transferred to the San Jose Division
16 pursuant to Civil Local Rule 3-2(f).

17 Dated: August 23, 2007

ROPERS, MAJESKI, KOHN & BENTLEY

18
19 By: 

20 STEPHAN A. BARBER
21 DANIEL P. MCKINNON
22 Attorneys for Defendant
23 COUNTY OF SAN BENITO
24
25
26
27
28

STEPHAN A. BARBER (SBN 70070)
DANIEL P. MCKINNON (SBN 234749)
ROPER, MAJESKI, KOHN & BENTLEY
80 North First Street
San Jose, CA 95113
Telephone: (408) 287-6262
Facsimile: (408) 918-4501
Email: sbarber@ropers.com
Email: dmckinnon@ropers.com

Attorneys for Defendant
COUNTY OF SAN BENITO

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

JOHN J. SARSFIELD

Plaintiff,

v.

COUNTY OF SAN BENITO, JAIME DE
LA CRUZ, in his official capacity, REB
MONACO, in his official capacity,
ANTHONY BOTELHO, in his official
capacity, DON MARCUS, in his official
capacity, and DOES 1 through 10,
inclusive,

Defendants.

CASE NO. C-07-2528 CRB

**[PROPOSED] ORDER GRANTING
DEFENDANT'S MOTION FOR INTRA-
DISTRICT TRANSFER**

Date: October 5, 2007
Time: 10:00 a.m.
Courtroom: 8
Judge: Hon. Charles R. Breyer

GOOD CAUSE APPEARING THEREFORE,

IT IS HEREBY ORDERED that Defendant's Motion for Intra-District Transfer is
GRANTED. Case No. C-07-2528 CRB shall be transferred to the San Jose Division of the
Northern District of California for all further proceedings.

Dated: _____, 2007

Hon. Charles R. Breyer
United States District Court